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Third Party Communication: None  
Date of Communication: Not Applicable

Date:  
March 31, 2015

TY:

Taxpayer =  
Company =  
State =  
Accounting Firm =  
Individual =  
Date 1 =  
Date 2 =  
Date 3 =  
Date 4 =  
Date 5 =  
Date 6 =

This responds to a letter dated November 20, 2014, submitted by Accounting Firm requesting that the Internal Revenue Service (“Service”) grant Taxpayer an extension of time under Treas. Reg. §§ 301.9100-1 and 301.9100-3 to file Form 4876-A (“Election To Be Treated as an Interest Charge DISC”) for Taxpayer’s first taxable year.

The rulings contained in this letter are based upon information and representations submitted by Taxpayer and Accounting Firm and accompanied by penalty of perjury statements executed by appropriate parties. This office has not verified any of the

material submitted in support of the request for rulings. It is subject to verification on examination.

### **FACTS**

Taxpayer is a domestic corporation wholly owned by Company. Taxpayer was formed to serve as an interest charge domestic international sales corporation ("IC-DISC") and has established a commission arrangement with Company. Taxpayer was formed on Date 1 in State as an accrual basis taxpayer.

Individual engaged Accounting Firm to assist Taxpayer with the preparation and filing of Form 4876-A. Accounting Firm prepared Form 4876-A and forwarded the form to Individual on Date 2 to coordinate completion, execution and filing of the Form. Accounting Firm instructed that the Form be filed on or before Date 3. Individual relies on Taxpayer's controller to handle tax filings, but Accounting Firm failed to copy Taxpayer's controller on the email. When Individual read through the Form 4876-A election email, Individual thought it was something that Individual had already signed and deleted the email. At that point, Individual thought the Form 4876-A election was filed and no further action was required on his part. On Date 4, Accounting Firm sent a reminder email to Individual and once again failed to copy the controller. Individual did not open the reminder email under Date 5. At this time, Individual was still under the impression that the election was properly filed. On Date 6, Taxpayer became aware that the Form 4876-A election was not filed when Taxpayer received a notice from the IRS indicating that the 1120-IC-DISC return could not be processed because a Form 4876-A election had not been filed by Taxpayer.

Taxpayer has requested a ruling that grants an extension of time of 60 days from the date of the ruling letter to file Form 4876-A and that such filing will be treated as a timely election to be treated as an IC-DISC for Taxpayer's first taxable year.

### **LAW AND ANALYSIS**

Section 992(b)(1)(A) provides that an election by a corporation to be treated as a DISC<sup>1</sup> shall be made by such corporation for a taxable year at any time during the 90-day period immediately preceding the beginning of the taxable year, except that the Secretary may give his consent to the making of an election at such other times as he may designate.

Temp. Treas. Reg. § 1.921-1T(b)(1) provides, in part, that a corporation electing IC-DISC status must file Form 4876-A. A corporation electing to be treated as an IC-DISC for its first taxable year shall make its election within 90 days after the beginning of that year.

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<sup>1</sup> As used in this letter, the terms "IC-DISC" and "DISC" have the same meaning.

Treas. Reg. § 301.9100-1(c) provides, in part, that the Commissioner, in exercising his discretion, may grant a reasonable extension of time under the rules set forth in Treas. Reg. §§ 301.9100-2 and 301.9100-3 to make a regulatory election under all subtitles of the Code (except subtitles E, G, H, and I).

Treas. Reg. § 301.9100-1(b) provides that a regulatory election is an election whose due date is prescribed by a regulation published in the Federal Register, or a revenue ruling, revenue procedure, notice, or announcement published in the Internal Revenue Bulletin. For this purpose, an election includes an application for relief in respect of tax.

Treas. Reg. § 301.9100-3(a) provides that requests for extensions of time for regulatory elections that do not meet the requirements of Treas. Reg. § 301.9100-2 (automatic extensions) must be made under the rules of Treas. Reg. § 301.9100-3. Requests for relief subject to Treas. Reg. § 301.9100-3 will be granted when the taxpayer provides the evidence (including affidavits described in Treas. Reg. § 301.9100-3(e)) to establish to the satisfaction of the Commissioner that the taxpayer acted reasonably and in good faith, and that the grant of relief will not prejudice the interests of the Government.

Based on the facts and representations submitted with Taxpayer's ruling request, we conclude that Taxpayer satisfies Treas. Reg. § 301.9100-3(a). Accordingly, Taxpayer is granted an extension of time of 60 days from the date of this ruling letter to file Form 4876-A. Such filing will be treated as a timely election to be treated as an IC-DISC for Taxpayer's first taxable year.

The granting of an extension in this ruling letter is not a determination that Taxpayer is otherwise eligible to make the election or to claim IC-DISC status or benefits. See Treas. Reg. § 301.9100-1(a). Taxpayer should attach a copy of this ruling letter to its Federal income tax return for the taxable years to which this letter applies.

This ruling is directed only to the taxpayer that requested it. Section 6110(k)(3) of the Code provides that written determinations may not be used or cited as precedent. Except as expressly provided herein, this ruling neither expresses nor implies any opinion concerning the tax consequences of any aspect of any transaction or item discussed or referenced in this ruling letter.

Pursuant to a Power of Attorney on file in this office, a copy of this ruling letter is being furnished to your authorized representative.

Sincerely,

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Marissa K. Rensen  
Assistant to the Branch Chief, Branch 6  
Office of the Associate Chief Counsel  
(International)